IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

MFA.No. 524 of 2001()

OPMV.656/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA
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APPELLANT:
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1. J.CHARIS, F/O.DECEASED JUSTIN JOSE,
THUNDUVILAKATHU PUTHENVEEDU,
ERICHALLOOR, PLAMOOTTUKADA P.O.,
VIA.AMARAVILA, NEYYATTINKARA.

2. ESTHER, W/O.CHARIS, THUNDUVILAKATHU
PUTHENVEEDU, IRICHALLOOR,
PLAMOOTTUKADA P.O., VIA. AMARAVILA,
NEYYATTINKARA.

3. RANI MABEL C.J., THUNDUVILAKATHU PUTHENVEEDU,
ERICHALLOOR, PLAMOOTTUKADA P.O.,
VIA. AMARAVILA, NEYYATTINKARA.

4. SHERLY MABEL C.J., DO. DO.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS:
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1. R.SUKUMARAN, MULLIVILA MEKKE PUTHEN VEEDU,
ARAYOOR, MARIYAPURAM P.O., NEYYATTINKARA.

2. THE DIVISIONAL MANAGER, THE NEW INDIA ASSURANCE CO. LTD.
2ND FLOOR, SREE HARI BUILDINGS, NEAR BUS STAND,
NEYYATTINKARA.

3. WILSON JOSEPH C.Y., S/O.CHARIS, THUNDUVILAKATHU
PUTHEN VEEDU, ERICHALLOOR, PLAMOOTTUKADA P.O.,
VIA. AMARAVILA, NEYYATTINKARA. (DELETED).

RESPODNENT NO.3 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANTS, VIDE ORDER DT.11.2.2003 ON CMP.7581 OF 2002.

BY ADV. SRI.T.P.SAJAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.524 OF 20O1

Dated this the 19th day of December, 2007

JUDGMENT

Koshy, J.

Appellants 1 and 2 are unfortunate parents of a youngster, who died in a motor accident on 2.1.1996. At the time of accident, the deceased was only 27 years old. The appellants claimed Rs.10,00,000/- as compensation. But the Tribunal, though found negligence on the part of the driver of the vehicle, insured by the third respondent Insurance Company, awarded only a compensation of Rs.2,31,000/-. Only the quantum of compensation is disputed in the appeal and we are considering that aspect only in this appeal.

The deceased was aged 27 at the time of death. It was argued that under the second schedule, for a person aged 27, 17 is the multiplier. But the Tribunal did not take 17 as the multiplier. We are of opinion that since he was unmarried at the time of death, claimants' age also should be taken into account for fixing the multiplier. Father of the deceased was 53 years old and mother was 49. The deceased had two sisters, apart from father and mother. Elder sister was 25 years old and younger sister was 23.

Considering the second schedule for guidance and taking the age of the mother, we fix 13 as the multiplier. The deceased was a M.A degree holder. Apart from M.A degree, he had B.Ed degree and at the time of accident he was studying for M.Phil. It was also come in the evidence that at the time of accident, he was also teaching in S.M.Parallel College, Udiyankulangara and he was getting Rs.4,000/- as monthly salary, apart from his other income of Rs.1,000/-. He also got an appointment card for a job in the Fire Force, as can be proved by Exhibit X2. If he has joined in the Fire Force. Exhibit X2 shows that his starting monthly income will be Rs.4,081/-. It is also stated that he got UGC selection also. If he was employed as a Lecturer in a UGC recognised College, his monthly income would be more than Rs.10,000/-. Future prospects also should be taken for calculation of salary. But the Tribunal has taken only Rs.4,000/-. We are of opinion that fixation of Rs.4,000/- as salary needs no interference as vagaries of life cannot be predicted. If that be so, after deducting one-third, compensation for loss of dependency will be Rs.2,650/-. It is true that there is likelihood of marriage after few years. But then his salary would have been doubled and one cannot say that he will main the parents or will not give any support to his sister. We have taken at 13 as the multiplier taking into consideration of the age of

the mother. If that be so, compensation payable will be 2650 x 12 x 13 = Rs.4,13,400/-. The Tribunal has awarded only Rs.2,31,000/- for loss of dependency. Therefore, additional compensation payable will be Rs.1,82,400/-. It is contended that compensation granted under other heads are very low. Considering the total amount granted, we are of opinion that no enhancement is necessary on other heads. The case was pending for a long time before this Court and the delay was partly happened due to the fault of the appellants also. Therefore, we award only 6% interest for the additional amount awarded. The above additional amount of Rs.1,82,400/- should be deposited by the third respondent Insurance Company with 6% from the date of application till the date of deposit, over and above the amount decreed by the Tribunal. On deposit of the amount, Rs.15,000/- each are allowed to withdraw by appellants 3 and 4 and the balance amount by appellants 1 and 2, father and mother in equal proportion. The appeal is allowed, partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.524 OF 2001

JUDGMENT

19.12.2007